

1 HB224
2 210100-4
3 By Representative Ledbetter
4 RFD: Health
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

1 Section 22-8A-4(a) or a proxy designation executed in
2 accordance with Section 22-8A-4(b) is presumed to be valid.
3 For the purpose of this chapter, a health care provider may
4 presume in the absence of actual notice to the contrary that
5 an individual who executed an advance directive for health
6 care was competent when it was executed. The fact of an
7 individual's having executed an advance directive for health
8 care shall not be considered as an indication of a declarant's
9 mental incompetency. Advanced age of itself shall not be a bar
10 to a determination of competency.

11 "(c) No physician, licensed health care
12 professional, ~~medical~~ health care facility, other health care
13 provider, or any employee thereof who in good faith and
14 pursuant to reasonable medical standards issues or follows a
15 portable physician DNAR order entered in the medical record
16 pursuant to this chapter or causes or participates in the
17 providing, withholding, or withdrawing of life-sustaining
18 treatment or artificially provided nutrition and hydration
19 from a patient pursuant to a living will or designated proxy
20 made in accordance with this chapter or pursuant to the
21 directions of a duly designated surrogate appointed in
22 accordance with this chapter, in the absence of actual
23 knowledge of the revocation thereof, shall, as a result
24 thereof, be subject to criminal or civil liability, or be
25 found to have committed an act of unprofessional conduct.

26 "(d) Any health care provider or health care
27 facility acting within the applicable standard of care who is

1 signing, executing, ordering, or attempting to follow the
2 directives of an Order for PPEL Care, or a DNAR order issued
3 under Section 22-8A-18, either of which is in compliance with
4 this chapter shall not be subject to criminal or civil
5 liability and shall not be found to have committed an act of
6 unprofessional conduct. Nothing in this chapter shall be
7 construed to establish a standard of care for physicians or
8 otherwise modify, amend, or supersede any provision of the
9 Alabama Medical Liability Act of 1987, the Alabama Medical
10 Liability Act of 1996, or any amendment or judicial
11 interpretation thereof. A health care provider or health care
12 facility that does not know, or could not reasonably know,
13 that a physician's Order for PPEL Care or a DNAR order issued
14 under Section 22-8A-18 exists may not be civilly or criminally
15 liable for actions taken to assist a qualified minor subject
16 to a physician's Order for PPEL Care or a DNAR order issued
17 under Section 22-8A-18."

18 Section 2. Section 22-8A-18 is added to the Code of
19 Alabama 1975, to read as follows:

20 §22-8A-18

21 (a) This section shall be known and may be cited as
22 Simon's Law.

23 (b) (1) Unless an Order for Pediatric Palliative and
24 End of Life (PPEL) Care has been executed by the
25 representative of a qualified minor and entered into the
26 medical record of the qualified minor by the attending
27 physician of the qualified minor in accordance with this

1 chapter, a Do Not Attempt Resuscitation (DNAR) order, whether
2 oral or in writing, shall not be instituted for a qualified
3 minor until both of the following occur:

4 a. Consent is obtained from the representative of
5 the qualified minor for a DNAR order.

6 b. A reasonable attempt is made to inform one or the
7 other parent of the consent by the representative of the
8 qualified minor.

9 (2) An attending physician, health care facility, or
10 the designee of any of the aforementioned shall provide
11 information regarding the intent to institute a DNAR order in
12 writing or orally. The attending physician, health care
13 facility, or the designee of any of the aforementioned shall
14 contemporaneously record the provision of information in the
15 medical record of the qualified minor, and specify by whom and
16 to whom the information was given. When the representative of
17 the qualified minor has been informed, the attending
18 physician, health care facility, or the designee of any of the
19 aforementioned shall contemporaneously record, within the
20 medical record of the qualified minor, information regarding
21 the attempts to inform one or the other parent of the
22 decision.

23 (c) The qualified minor's representative may refuse
24 consent for a PPEL order or a DNAR order for the qualified
25 minor, either in writing or orally. Any refusal of consent
26 shall be contemporaneously recorded in the medical record of
27 the qualified minor. No DNAR order shall be instituted if

1 there has been a timely refusal of consent, except when a PPEL
2 order or DNAR order is consented to at a later date or in
3 accordance with a court order issued pursuant to subsection
4 (d).

5 (d) If the parents or representative of a qualified
6 minor are unable to agree on whether to institute or revoke a
7 DNAR order, either a parent or representative may institute a
8 proceeding under subsection (e) to resolve the conflict based
9 on a presumption in favor of the provision of cardiopulmonary
10 resuscitation. Pending the final determination of the
11 proceedings, including any appeals, a DNAR order shall not be
12 implemented.

13 (e) A representative of a qualified minor, attending
14 physician, or health care facility may petition a circuit
15 court of the county in which the qualified minor resides, or
16 in which the qualified minor is receiving treatment, for an
17 order enjoining a violation or threatened violation of this
18 chapter or to resolve a conflict or perceived conflict. Upon
19 receiving the petition, the circuit court shall issue an order
20 fixing the date, time, and place of a hearing on the petition
21 and ordering that notice of the hearing shall be provided. A
22 preliminary hearing may be held without notice if the court
23 determines that holding that hearing without notice is
24 necessary to prevent imminent danger to the life of the
25 qualified minor. In the court's discretion, a hearing may be
26 conducted in a courtroom, a treatment facility, or at some
27 other suitable place.

1 (f) Upon the request of a qualified minor or the
2 representative of a qualified minor, a health care facility or
3 attending physician shall disclose in writing any policies
4 relating to services a qualified minor may receive involving
5 PPEL orders, DNAR orders, or life-sustaining measures within
6 the health care facility. Nothing in this section shall
7 require a health care facility or attending physician to have
8 a written policy relating to or involving PPEL orders, DNAR
9 orders, or life-sustaining treatment.

10 (g) Nothing in this section shall affect the rights
11 of individuals or obligations of providers under the Federal
12 Patient Self Determination Act, 42 U.S.C. §§ 1395cc and 1396a.

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 02-FEB-21

Read for the second time and placed
on the calendar..... 10-FEB-21

Read for the third time and passed
as amended..... 30-MAR-21

Yeas 97, Nays 0, Abstains 0

Jeff Woodard
Clerk